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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,932	02/03/2004	James W. Hendry	LC 0148 PUS	1624
7590	03/24/2006		EXAMINER [REDACTED]	MCDOWELL, SUZANNE E
John A. Artz Artz & Artz, P.C. Suite 250 28333 Telegraph Road Southfield, MI 48034			ART UNIT [REDACTED]	PAPER NUMBER 1732
DATE MAILED: 03/24/2006				

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/770,932

Filing Date: February 03, 2004

Appellant(s): HENDRY, JAMES W.

**MAILED**

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**GROUP 1700**

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John A. Artz  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed February 13, 2006 appealing from the Office action mailed

June 17, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is deficient. 37 CFR 41.37(c)(1)(v) requires the summary of claimed subject matter to include: (1) a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters and (2) for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters. The brief is deficient because the valve as claimed is not "infinitely pressure controlled".

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,019,918      Guergov      02/2000

5,558,824      Shah et al.      09/1996

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Guergov (US Patent 6,019,918). Guergov discloses the claimed limitations in Figures 16 and 17 (column 20, line 32-column 21, line 30). Regarding claim 13, Guergov discloses an ejector pin (288).

Claims 12 and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Shah et al. (US Patent 5,558,824). Shah discloses the claimed limitations in Figure 2 (column 3, line 25-column 4, line 55).

**(10) Response to Argument**

In response to Appellant's argument that neither Guergov or Shah et al. disclose the "use of a gas pressure valve for removing the gas from the mold cavity...", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Guergov discloses the claimed limitations in Figures 16 and 17 (column 20, line 32-column 21, line 30). Specifically (column 21, lines 3-5), Guergov

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teaches pressure valves (246, 248) and a relief valve (258), any of which is capable of performing the intended function. Shah discloses the claimed limitations in Figure 2 (column 3, line 25-column 4, line 55). Specifically (Figure 2, column 3, lines 50-64), Shah et al. teaches a control valve (78) which is capable of performing the intended function.

In response to Appellant's argument that the references fail to show certain features of Appellant's invention, it is noted that the features upon which Appellant relies (i.e., infinitely adjustable pressure valve) are not recited in the rejected claim(s) nor mentioned in the specification. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Regarding claim 16, Shah et al. teaches a control valve (78) and pressure switches (75, 79).

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



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